

103^D CONGRESS
1ST SESSION

S. 855

To authorize the Secretary of the Interior to consolidate the surface and subsurface estates of certain lands within 3 conservation system units on the Alaska Peninsula, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 29 (legislative day, APRIL 19), 1993

Mr. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize the Secretary of the Interior to consolidate the surface and subsurface estates of certain lands within 3 conservation system units on the Alaska Peninsula, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Alaska Peninsula Sub-
5 surface Consolidation Act of 1993”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act:

8 (1) AGENCY.—The term agency—

1 (A) means—

2 (i) any instrumentality of the United
3 States; and

4 (ii) any Government corporation (as
5 defined in section 9101(1) of title 31,
6 United States Code); and

7 (B) includes any element of an agency.

8 (2) ALASKA NATIVE CORPORATION.—The term
9 “Alaska Native Corporation” has the same meaning
10 as is provided for “Native Corporation” in section
11 3(m) of the Alaska Native Claims Settlement Act
12 (43 U.S.C. 1602(m)).

13 (3) KONIAG.—The term “Koniag” means
14 Koniag, Incorporated, which is a Regional Corpora-
15 tion.

16 (4) KONIAG ACCOUNT.—The term “Koniag Ac-
17 count” means the account established under section
18 4.

19 (5) PROPERTY.—The term “property” has the
20 same meaning as is provided in section 12(b)(7)(vii)
21 of Public Law 94–204 (43 U.S.C. 1611 note).

22 (6) REGIONAL CORPORATION.—The term “Re-
23 gional Corporation” has the same meaning as is pro-
24 vided in section 3(g) of the Alaska Native Claims
25 Settlement Act (43 U.S.C. 1602(g)).

1 (7) SECRETARY.—Except as otherwise provided,
2 the term “Secretary” means the Secretary of the In-
3 terior.

4 (8) SELECTION RIGHTS.—The term “selection
5 rights” means those rights granted to Koniag, pur-
6 suant to subsections (a) and (b) of section 12, and
7 section 14(h)(8), of the Alaska Native Claims Settle-
8 ment Act (43 U.S.C. 1611 and 1613(h)(8)), to re-
9 ceive title to the oil and gas rights and other inter-
10 ests in the subsurface estate of the approximately
11 275,000 acres of public lands in the State of Alaska
12 identified as “Koniag Selections” on the map enti-
13 tled “Koniag Interest Lands, Alaska Peninsula”,
14 dated May 1989.

15 **SEC. 3. ACQUISITION OF KONIAG SELECTION RIGHTS.**

16 (a) IN GENERAL.—

17 (1) TENDER OF RELINQUISHMENT AND AC-
18 CEPTANCE.—If the Secretary receives from Koniag a
19 timely tender of relinquishment of the selection
20 rights, the Secretary shall—

21 (A) accept the tender not later than 60
22 days after the date of the receipt of the tender;
23 and

24 (B) notify the Secretary of the Treasury of
25 the acceptance of the tender.

1 (2) TIMELINESS.—

2 (A) IN GENERAL.—For the purpose of
3 paragraph (1) and subject to subparagraph (B),
4 a tender by Koniag shall be timely if the tender
5 is received by the Secretary not later than 180
6 days after the later of—

7 (i) the date of the receipt by Koniag
8 of the determination by the Secretary of
9 the value of the selection rights pursuant
10 to subsection (b); or

11 (ii) the date of the final resolution of
12 any dispute regarding the value of the se-
13 lection rights under subsection (b).

14 (B) MODIFICATION.—The Secretary and
15 Koniag may agree to modify the deadline estab-
16 lished under subparagraph (A).

17 (b) VALUE.—

18 (1) IN GENERAL.—The value of the selection
19 rights shall be equal to the fair market value of—

20 (A) the oil and gas interests in the lands
21 or interests in lands that are the subject of the
22 selection rights; and

23 (B) in the case of the lands or interests in
24 lands for which Koniag is to receive the entire
25 subsurface estate, the subsurface estate of the

lands or interests in lands that are the subject
of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90
days after the date of enactment of this
Act, the Secretary and Koniag shall meet
to select a qualified appraiser to conduct
an appraisal of the selection rights. Sub-
ject to clause (ii), the appraiser shall be se-
lected by the mutual agreement of the Sec-
retary and Koniag.

(ii) FAILURE TO AGREE.—If the Sec-
retary and Koniag fail to agree on an ap-
praiser by the date that is 60 days after
the date of the initial meeting referred to
in clause (i), the Secretary and Koniag
shall, by the date that is not later than 90
days after the date of the initial meeting,
each designate an appraiser who is quali-
fied to perform the appraisal. The 2 ap-
praisers so identified shall select a third
qualified appraiser who shall perform the
appraisal.

(B) STANDARDS AND METHODOLOGY.—

The appraisal shall—

(i) be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)); and

(ii) utilize the methodology customarily used by the Minerals Management Service of the Department of the Interior.

(C) SUBMISSION OF APPRAISAL REPORT.—

Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(C), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

1 (B) ALTERNATIVE DETERMINATION OF
2 VALUE.—

3 (i) IN GENERAL.—Subject to clause
4 (ii), if Koniag does not agree with the
5 value determined by the Secretary under
6 subparagraph (A), the procedures specified
7 in section 206(d) of the Federal Land Pol-
8 icy and Management Act of 1976 (43
9 U.S.C. 1716(d)) shall be used to establish
10 the value.

11 (ii) AVERAGE VALUE LIMITATION.—
12 The average value per acre of the selection
13 rights shall not be more than \$300.

14 **SEC. 4. KONIAG ACCOUNT.**

15 (a) ESTABLISHMENT.—

16 (1) IN GENERAL.—If the Secretary of the
17 Treasury is notified pursuant to section 3(a)(1)(B),
18 on October 1, 1997, the Secretary of the Treasury,
19 in consultation with the Secretary, shall establish in
20 the Treasury of the United States an account to be
21 known as the “Koniag Account”.

22 (2) INITIAL BALANCE.—The initial balance of
23 the Koniag Account shall be equal to the value of
24 the selection rights as determined pursuant to sec-
25 tion 3(b).

1 (3) USE OF ACCOUNT.—

2 (A) IN GENERAL.—Amounts in the Koniag
3 Account shall—

4 (i) be made available by the Secretary
5 of the Treasury to Koniag for bidding on
6 and purchasing property sold at public
7 sale, subject to the conditions described in
8 this paragraph; and

9 (ii) remain available until expended.

10 (B) ASSIGNMENT.—

11 (i) IN GENERAL.—Subject to clause
12 (ii) and notwithstanding any other provi-
13 sion of law, the right to request the Sec-
14 retary of the Treasury to withdraw funds
15 from the Koniag Account shall be assign-
16 able in whole or in part by Koniag.

17 (ii) NOTICE OF ASSIGNMENT.—No as-
18 signment shall be recognized by the Sec-
19 retary of the Treasury until Koniag files
20 written notice of the assignment with the
21 Secretary of the Treasury and the Sec-
22 retary.

23 (C) BIDDING AND PURCHASING.—

24 (i) IN GENERAL.—Koniag may use
25 the Koniag Account to—

1 (I) bid, in the same manner as
2 any other bidder, for any property at
3 any public sale by an agency; and

4 (II) purchase the property in ac-
5 cordance with applicable laws, includ-
6 ing the regulations of the agency of-
7 fering the property for sale.

8 (ii) REQUIREMENTS FOR AGENCIES.—
9 In conducting a transaction described in
10 clause (i), an agency shall accept, in the
11 same manner as cash, an amount tendered
12 from the Koniag Account.

13 (iii) ADJUSTMENT OF BALANCE.—The
14 Secretary of the Treasury shall adjust the
15 balance of the Koniag Account to reflect
16 each transaction under clause (i).

17 (4) SPECIAL PROCEDURES.—The Secretary of
18 the Treasury, in consultation with the Secretary,
19 shall establish procedures to permit the Koniag Ac-
20 count to—

21 (A) receive deposits;

22 (B) make deposits into escrow when an es-
23 crow is required for the sale of any property;
24 and

1 (C) reinstate to the Koniag Account any
2 unused escrow deposits if a sale is not con-
3 summated.

4 (b) TREATMENT OF AMOUNTS FROM ACCOUNT.—
5 The Secretary of the Treasury shall—

6 (1) deem as a cash payment any amount ten-
7 dered from the Koniag Account and received by an
8 agency as a proceed from a public sale of property;
9 and

10 (2) make any transfer necessary to permit the
11 agency to use the proceed in the event an agency is
12 authorized by law to use the proceed for a specific
13 purpose.

14 (c) REQUIREMENT FOR THE ADMINISTRATION OF
15 SALES.—

16 (1) IN GENERAL.—Subject to paragraph (2),
17 the Secretary of the Treasury and the heads of
18 agencies shall administer sales described in sub-
19 section (a)(3)(C) in the same manner as is provided
20 for any other Alaska Native Corporation that—

21 (A) is authorized by law as of the date of
22 enactment of this Act; and

23 (B) has an account similar to the Koniag
24 Account for bidding on and purchasing property
25 sold for public sale.

1 (2) PROHIBITION.—Amounts in an account es-
2 tablished for the benefit of a specific Alaska Native
3 Corporation may not be used to satisfy the property
4 purchase obligations of any other Alaska Native Cor-
5 poration.

6 (d) DIVISION OF REVENUES.—The selection rights
7 shall be deemed to be an interest in the subsurface estate
8 for the purpose of section 7(i) of the Alaska Native Claims
9 Settlement Act (43 U.S.C. 1606(i)).

10 **SEC. 5. CERTAIN CONVEYANCES.**

11 (a) INTERESTS IN LAND.—For the purpose of section
12 21(c) of the Alaska Native Claims Settlement Act (43
13 U.S.C. 1620(c)), the following shall be deemed to be an
14 interest in land:

15 (1) The establishment of the Koniag Account
16 and the right of Koniag to request the Secretary of
17 the Treasury to withdraw funds from the Koniag
18 Account.

19 (2) The receipt by a Settlement Trust (as de-
20 fined in section 3(t) of such Act (43 U.S.C. 1602(t))
21 of a conveyance by Koniag of any right in the
22 Koniag Account.

23 (b) AUTHORITY TO APPOINT TRUSTEES.—In estab-
24 lishing a Settlement Trust under section 39 of such Act
25 (43 U.S.C. 1629e), Koniag may delegate the authority

- 1 granted to Koniag under subsection (b)(2) of such section
- 2 to any entity that Koniag may select without affecting the
- 3 status of the Settlement Trust under this section.

